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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/867,814	05/30/2001	Steffanie G. Waddington	11867.0003.NPUS00 (MKSS:0)	6624

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EXAMINER

BUCHANAN, CHRISTOPHER R

ART UNIT

PAPER NUMBER

3627

DATE MAILED: 08/18/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/867,814

Applicant(s)

WADDINGTON ET AL.

Examiner

Christopher R Buchanan

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 June 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 17-50 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 17-50 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s) _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 17-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Critelli et al. alone.

With regard to claim 17, Critelli discloses a method for distributing a plurality of items to a customer (see abstract) that includes the steps of placing the items in a shipping unit (11, Fig. 1, col. 2 line 50+), placing a label (18, Fig. 2) having a unique identifier on the shipping unit (col. 2 line 61+, col. 3 line 1+), creating a shipment record identifying the unit by the identifier and listing the items within the unit wherein the record associates the identifier with the items in the shipping unit (col. 3 line 28+, col. 4 line 27+, col. 5 line 1+, common practice), sending and delivering the shipping unit and shipment record to the customer (abstract, col. 4 line 49+, col. 5 line 1+), receiving the shipping unit by the customer, and identifying the shipping unit by the customer by electronically reading the identifier on the label (col. 4 line 50+, col. 5 line 1+). With regard to claim 18, the contents of the shipping unit are verified using the listing of items on the shipping record (col. 5 line 2+, abstract). With regard to claim 19, it is not explicitly stated that discrepancies between the shipping unit contents and the shipping

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record are electronically recorded, however, in the case of discrepancies the customer would not agree to the information on the shipping record (col. 5 line 4+) and some record would be made of this, electronic or otherwise, as this is common practice. With regard to claims 20 and 21, delivery and receipt records are created by electronically reading the identifier (col. 4 line 49+, col. 5 line 1+). It is not explicitly stated that discrepancies between the shipping unit contents and the shipping record are recorded, however, in the case of discrepancies the customer would not agree to the information on the shipping record (col. 5 line 4+) and some record would be made of this. With regard to claim 22, the identifier is a barcode (col. 2 line 60). With regard to claim 23, the shipment record is stored on a personal computer (col. 4 line 1+, see Fig. 5). With regard to claims 24 and 25, the customer's signature and the time of delivery are electronically captured (col. 5 line 1+).

3. Claims 26-40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Critelli et al. alone.

Critelli discloses a method for distributing a plurality of items from a storage location to a remote site (see abstract) that includes the steps of creating an electronic shipment record listing the items to be delivered (col. 3 line 28+, col. 4 line 27+), delivering the items to the remote site (abstract, col. 4 line 49+), sending and delivering the shipping unit and shipment record to the remote site (abstract, col. 4 line 49+, col. 5 line 1+), and creating an electronic delivery record of the items delivered (col. 4 line 49+, col. 5 line 1+). It is not explicitly stated that the quantity of each of the items is

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listed or that discrepancies between the shipped and delivered quantities are recorded, however, it would be obvious to one skilled in the art that a variety of information could be included on the shipment and delivery records, including quantity and discrepancy information. Furthermore, in the case of discrepancies the customer would not agree to the information on the shipping record (col. 5 line 4+), and some record would be made of this, as this is common practice. The identifier can be used to determine the location of the shipping unit (col. 5 line 1+), delivery information is transmitted between a distribution center computer and a delivery device which could be used for a variety of purposes, like tracking (col. 5 line 20+, common practice), creating a delivery record after delivering the unit, contents of the unit are verified by reading the identifier and looking at shipment record (col. 5 line 1+, common practice), the contents of the shipping unit are verified using the listing of items on the shipping record (col. 5 line 2+, abstract). It is not explicitly stated that discrepancies between the shipping unit contents and the shipping record are electronically recorded, however, in the case of discrepancies the customer would not agree to the information on the shipping record (col. 5 line 4+). It would be obvious to one skilled in the art that the items in the shipping unit could be verified at any point by using a variety of different information.

4. Claims 41-50 are rejected under 35 U.S.C. 103(a) as being unpatentable over Critelli et al. alone.

Critelli discloses a method for distributing a plurality of items to a customer (see abstract) that includes the steps of submitting an order for items by the customer,

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placing the items in a shipping unit (11, Fig. 1, col. 2 line 50+), placing a label (18, Fig. 2) having a unique identifier on the shipping unit (col. 2 line 61+, col. 3 line 1+), creating a shipment record identifying the unit by the identifier and listing the items within the unit wherein the record associates the identifier with the items in the shipping unit (col. 3 line 28+, col. 4 line 27+, col. 5 line 1+, common practice), sending and delivering the shipping unit and shipment record to the customer (abstract, col. 4 line 49+, col. 5 line 1+), receiving the shipping unit by the customer, identifying the shipping unit by the customer by electronically reading the identifier on the label (col. 4 line 50+, col. 5 line 1+), and reconciling the items received with the items on the shipment record (col. 5 line 4+). It is not explicitly stated that discrepancies between the shipping unit contents and the shipping record are electronically recorded or that a warning signal is generated, however, in the case of discrepancies the customer would not agree to the information on the shipping record (col. 5 line 4+) and some record would be made of this, electronic or otherwise, as this is common practice. Delivery and receipt records are created by electronically reading the identifier (a barcode, see Fig. 2) and could include a variety of information, like deliver time (col. 4 line 49+, col. 5 line 1+). It is common practice to scan items at various points in the supply/delivery chain (ordering, returns, etc.) and to include appropriate information regarding the item (location, quantity, status) and to transfer this information to a central system.

Response to Arguments

5. Applicant's arguments filed June 5, 2003 have been fully considered but they are not persuasive. Applicant's arguments are addressed in the rejection above.

Conclusion

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher R Buchanan whose telephone number is 703-306-5782. The examiner can normally be reached on M-T 9-7.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Olszewski can be reached on 703-308-5183. The fax phone numbers for the organization where this application or proceeding is assigned are 703-

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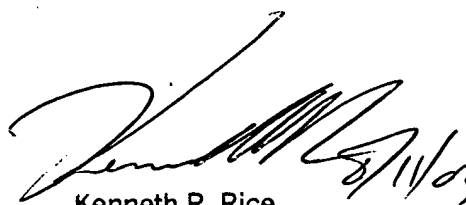
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305-7687 for regular communications and 703-305-7687 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.

CRB

Christopher Buchanan
August 8, 2003


Kenneth R. Rice
Primary Examiner